
Chapter 3 — Prior Written Notice and Consent

❖ Written Notice

Parents and eligible students are provided written notices at specific points throughout the special education process. These situations are identified in IDEA and Connecticut regulations. The State Department of Education's procedural safeguards document is provided to parents and eligible students at many of these times as well.

Age of Majority

The District sends all required notices to both the student and the parent when a student reaches age eighteen. The only exception to this is for a student who has been determined to be incompetent under state law. Throughout this section, students age eighteen or older who have not been determined to be incompetent under state law are referred to as (an) "eligible student(s)".

Description of Prior Written Notice

Prior written notice is a document that our District provides to parents and eligible students. This document serves to notify parents and eligible students, in writing, five school days before the District proposes to or refuses to initiate or change the student's identification, evaluation or educational placement or the provision of a free appropriate public education ("FAPE") to the student. This includes graduation from high school with a regular diploma or whenever a decision will affect the provision of a free appropriate public education. The term "regular high school diploma" does not include alternative degrees such as certificates of attendance or completion of a general educational development credential ("GED").

The written prior notice will have the following information: [Page 3 of ED 620]

- Description of the action proposed or refused by the PPT;
- Explanation of why the PPT proposes or refuses to take the action;
- Description of any options the PPT considered and the reasons why those options were rejected;
- Description of each evaluation procedure, test, record, or report the District used as a basis for the proposal or refusal;
- Description of any other factors that are relevant to the PPT's proposal or refusal; and
- Statement that a parent or eligible student has the right to protection under procedural safeguards. If this notice is not an initial referral, prior written notice will include a description of how the procedural safeguards can be obtained. Prior written notice will include sources to contact to obtain assistance in understanding the provisions of IDEA.

Additional Situations Requiring Notice

In addition to the above information, IDEA requires notice to be given to the parents and eligible students for a disciplinary situation that results in placement in an interim alternative educational setting. The Connecticut regulations also require that notice be given to parents and eligible students in other situations in the special education process as described below. These are not prior written notice as described above, but each has its own set of required components.

Referral [ED 622]

Our District notifies parents and eligible students in writing within five school days after the date of a referral to special education. The notice contains the following elements:

- Reason for notice;
- Source of the referral;
- Date of the referral; and
- Statement of parental rights or eligible student's rights to review and obtain copies of all records used as a basis for referral.

A full explanation of all procedural safeguards available to the parent or eligible student is sent with the referral notice.

Indication of the Convening of a Planning and Placement Team Meeting [ED 623]

At least five school days prior to a meeting to develop, review or revise a student's Individualized Education Program (IEP), the parent or eligible student is advised in writing, in her or his native language, of the right to participate as a member of the Planning and Placement Team.

The elements of the notice include:

- The purpose for the PPT meeting;
- A time and location of the meeting with a statement that the meeting can be rescheduled at a mutually agreed upon time and place;
- Who will be in attendance and who will be invited to the meeting; and
- An indication that parents or eligible students can bring anyone of their choosing to the meeting.

If the PPT's purpose is to develop transition goals and objectives as part of the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the PPT team, the notice of the PPT indicates:

- This purpose of the meeting;
- That the student is invited;
- Identification of any other agency that will be invited to send a representative with the written consent of the parent (also see chapter 5, page 2); and
- All other PPT meeting notice elements listed above.

Initial Evaluation [ED 625]

The notice to secure original consent for an initial evaluation includes the elements of prior written notice and the following elements:

- The reason for notice;
- A description of each evaluation procedure, test, record or report to be given or created;
- A statement that parents or eligible students have the right to obtain an independent evaluation as part of the evaluation process;

- A statement that parents or eligible students have the right to refuse consent and that, if given, it may be revoked at any time;
- A statement that if parents or eligible students contest the evaluation through due process procedures, the student's current educational placement will not change until due process procedures have been completed;
- A statement that failure to respond within ten school days from the date of the notice, shall be construed as refusal of consent;
- An indication that a copy of the procedural safeguards document is included with the notice; and
- An indication that parents or eligible students will receive a copy of the evaluation report and documentation of determination of eligibility.

Reevaluation [ED 627]

In addition to the elements of prior written notice, the reevaluation notice must include:

- The reason for notice;
- A description of each evaluation procedure, test, record or report to be given or created;
- A statement that parents or eligible students have the right to obtain an independent evaluation as part of the evaluation process;
- A statement that parents or eligible students have the right to refuse consent and that, if given, it may be revoked at any time;
- A statement that if parents or eligible students contest the reevaluation through due process procedures, the student's current educational placement will not change until due process procedures have been completed;
- An indication that parents or eligible students will receive a copy of the evaluation report and documentation of determination of eligibility.

Parents and eligible students are notified when no additional data is needed for reevaluation and they are informed of that decision, the reasons for it, and their rights to request an assessment to determine whether the student continues to be a student eligible for special education.

Disciplinary Situations That Result in Interim Alternative Educational Settings

In disciplinary situations, parents and eligible students are notified no later than the date on which a decision is made to take an action that may or will result in one or more of the following:

- The student will be placed in an appropriate interim alternative educational setting for reasons of weapons, drugs, or serious bodily injury (see chapter 10).
- A hearing officer will order a change in the placement of a student to an appropriate interim alternative setting.
- The student will be removed from school for a period of time that would be considered a change in placement.

Parents or eligible students are provided a copy of procedural safeguards.

Communication of Written Notice

The District communicates prior written notice in a language understandable to the general public. It is in the native language of the parent and eligible students or other mode of communication used by the parent and eligible students unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, the District will take steps to ensure that there is written evidence that the notice is translated orally or by other means to the parent and eligible student and that the parent and eligible student understands the content of the notice.

Timelines for Prior Written Notice

The District provides parents and eligible students with written notice five school days before the Planning and Placement Team proposes to, or refuses to, initiate or change the identification, evaluation or educational placement of the student. This includes graduation from high school with a regular diploma or issues regarding the provision of a free appropriate education to the student.

❖ Parental Consent

In accordance with Federal regulations, the District requires informed parental (or eligible student) consent prior to an initial evaluation, reevaluation, and an initial provision of special education services and release of confidential educational records under specific conditions. Also in accordance with Connecticut regulations, our District requires consent prior to a private placement.

Consent means that the parent (or eligible student):

- has been fully informed of all information relevant to the activity for which consent is sought. This information is given to the parent or eligible student in his or her native language, or other mode of communication unless it is clearly not feasible to do so;
- understands and agrees in writing to the carrying out of the activity for which her or his consent is sought. The consent describes that activity and lists the records (if any) that will be released and to whom they will be released; and
- understands that the granting of consent is voluntary and may be revoked at any time.

Obtaining Parental Consent

In Hamden, parental (or eligible student) consent is obtained prior to an initial evaluation and reevaluation (with the exception noted below), an initial provision of special education services, and a private placement. Consent for initial evaluation is not construed as consent for initial provision of special education services.

Parents (or eligible students) may not object to the inclusion in an initial evaluation or reevaluation of the following:

- review of existing data, or
- testing or other evaluation that is administered to all students, unless, before administering that test or evaluation, consent is required of parents of all students.

Parental (or eligible student) consent for reevaluation need not be obtained if the District can document that the District has taken reasonable measures to obtain the consent and the parent (or eligible student) has failed to respond. In these situations the District would have some documentation indicating the following activities:

- detailed records of telephone calls made or attempted and the results of these calls;
- copies of correspondence sent to the parents (or eligible student) and any responses received; and
- detailed records of visits made to the parent's (or eligible student's) home or place of employment and the results of those visits.

Parental Refusal for Consent or Withdrawal of Consent

If a parent (or eligible student) revokes consent, that revocation is not retroactive. Therefore, it does not negate an action that has occurred after consent was given and before consent was revoked.

Hamden Public Schools does not use a parent's (or eligible student's) refusal to consent to one service or activity to deny the parent or student any other service, benefit or activity in our District.

If a parent (or eligible student) refuses or withdraws consent in the case of an initial evaluation or reevaluation, our District may continue to pursue these PPT decisions by using due process, including mediation. If a hearing officer upholds our District decisions, Hamden may evaluate or reevaluate.

If a parent (or eligible student) refuses consent or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, Hamden will not pursue the provision of special education and related services by using due process, including mediation.

If parental (or eligible student) consent is not given or is revoked for private placement, the District will request a hearing provided the private placement is not the initial placement for the child.

Consent Forms

All consent forms in our District include:

- A statement of parents' (or eligible student's) right to refuse consent and that, if given, it may be revoked at any time;
- A statement that parental (or eligible student's) failure to respond within ten school days from the date of the notice shall be construed as refusal of consent (not applicable to reevaluation); and
- A statement that, if contested, a student's current educational placement will not change until due process procedures have been completed.

❖ Procedural Safeguards

Our District considers provision of procedural safeguards an essential part of prior written notice. Procedural safeguards are given to parents (or eligible students) as part of the prior written notice. A copy of the procedural safeguards is given to the parents (or eligible students), at least one time a year and upon the following occurrences:

- initial referral or parent request for evaluation;
- upon receipt of the first complaint made under the State's Complaint Resolution Process or the first due process complaint filed in a school year;
- on the date on which the decision is made to remove a child from his or her educational placement because he or she has violated a code of student conduct and the removal constitutes a change in placement [see Chapter 10, Discipline]; or
- upon request by a parent.

The State Department of Education's procedural safeguard document provided to parents (or eligible students) includes the following:

- Evaluation of a child by a person who does not work for the school district. This is called an independent educational evaluation;
- Giving the parent a copy in writing of what the school is proposing or refusing to do about a child's program (prior written notice);
- Getting parent permission before the school administers evaluations or provides special education services to a child;
- Inspecting, reviewing and obtaining a copy of a child's educational record;
- Due process hearings;
- Advisory opinions;
- A child's program during the pendency of a due process hearing;
- Procedures when disciplining a child with a disability;
- Steps a parent must follow if a parent places a child in a private school and expects the school to pay;
- Mediations;
- Expedited due process hearings;
- Bringing a case to court;
- Attorneys' fees;
- State complaints;
- The difference between due process hearings and state complaints; and
- Electronic Mail.

Communication of Procedural Safeguards

The description of the procedural safeguards available to parents (or eligible students) is provided in the native language of the parent (or eligible student) or other mode of communication used by the parent (or eligible student) unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent (or eligible student) is not a written language, the District takes steps to ensure that the procedural safeguards is translated orally or by other means to the parent (or eligible student) in his or her native language or other mode of communication that the parent (or eligible student) understands. The District ensures that the parent (or eligible student) understands the content of the procedural safeguards and that there is written evidence that these requirements have been met.